

## Federal Railroad Administration, DOT

## § 256.3

and interest, shall be treated as an expense of administration and receive the highest lien on the railroad's property and priority in payment under the Bankruptcy Act.

(3) Unexecuted copies of the foregoing documents will be delivered to the Administrator 3 business days prior to closing.

(b) The guarantee by the Secretary of a loan pursuant to an application filed as provided in this part should not be construed as relieving a carrier from complying with applicable provisions of section 20a of the Interstate Commerce Act (49 U.S.C. 20a) in relation to the issuance of Trustee certificates.

### PART 256—FINANCIAL ASSISTANCE FOR RAILROAD PASSENGER TER- MINALS

#### REGULATIONS GOVERNING APPLICATIONS FOR AND DISBURSEMENT OF FINANCIAL ASSISTANCE

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#### APPENDIX A TO PART 256—CERTIFICATE

AUTHORITY: Sec. 4(i) of the Department of Transportation Act, 49 U.S.C. 1653(i), as amended by (1) sec. 15 of the Amtrak Improvement Act of 1974, Pub. L. 93-496, 88 Stat. 1528; (2) sec. 13 of the Amtrak Improvement Act of 1975, Pub. L. 94-25, 89 Stat. 93; (3) sec. 706 of the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210, 90 Stat. 125; and (4) sec. 219(a) of the Rail Transportation Improvement Act, Pub. L. 94-555, 90 Stat. 2629; and regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(r).

#### REGULATIONS GOVERNING APPLICATIONS FOR AND DISBURSEMENT OF FINAN- CIAL ASSISTANCE

##### § 256.1 Purpose.

The purpose of this part is to establish procedures for implementing subsection 4(i) of the Department of Transportation Act as amended (49 U.S.C. 1653(i)) with respect to all finan-

cial assistance provided under that subsection.

[40 FR 29080, July 10, 1975]

##### § 256.3 Definitions.

As used in this part—

(a) *Act* means the Department of Transportation Act, as amended.

(b) *Administrator* means the Federal Railroad Administrator, or his delegate.

(c) *Allowable project costs* means those project costs for which Federal financial assistance may be expended under § 256.7.

(d) *Applicant* means a governmental entity, a non-profit public-purpose organization, or any responsible person having the legal, financial, and technical capacity to implement an intermodal passenger terminal project under this part. The applicant must have legal authority to receive and expend Federal funds.

(e) *Chairman* means the Chairman of the National Endowment for the Arts.

(f) *Civic and cultural activities* includes, but is not limited to, museums, libraries, musical and dramatic presentations, art exhibitions, adult education programs, public meetings of community groups, convention visitors and others, and other public activities supported in whole or in part under Federal law.

(g) *Council* means the Advisory Council on Historic Preservation.

(h) *Demonstration funds* means funds authorized for the purpose set forth in paragraph (1)(A) of subsection 4(i) of the Act.

(i) *Intermodal passenger terminal* means an existing railroad passenger terminal which has been or may be modified as necessary to accommodate several modes of transportation, including intercity rail service and some or all of the following: Intercity bus, commuter rail, intra-city rail transit and bus transportation, airport limousine service and airline ticket offices, rent-a-car facilities, taxis, private parking, and other transportation services.

(j) *National Register* means the National Register of Historic Places maintained by the Secretary of the Interior.

(k) *Planning funds* means funds authorized for the purpose set forth in paragraph (1)(D) of subsection 4(i) of the Act.

(l) *Preservation funds* means funds authorized for the purpose set forth in paragraph (1)(B) of subsection 4(i) of the Act.

(m) *Project* means a locally sponsored, coordinated, and administered program, or any part thereof, to plan, finance, construct, maintain, or improve an intermodal passenger terminal, which may incorporate civic or cultural activities where feasible in an architecturally or historically distinctive railroad passenger terminal.

(n) *4R Act* means the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, Public Law 94–210, 90 Stat. 125, 49 U.S.C. 1653.

(o) *Sufficient commitments* means commitments of a binding nature adequate to ensure the successful operation of a project. Such commitments may be conditional, requiring, for example, the participation of other entities in the project, or action by a date certain.

[40 FR 29080, July 10, 1975, as amended at 43 FR 21887, May 22, 1978; 44 FR 21647, Apr. 11, 1979]

#### § 256.5 Eligibility.

(a) *General.* A project is eligible for financial assistance under subsection 4(i) of the Act if:

(1) The applicant provides satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of and accounting for Federal financial assistance granted to the applicant under the Act;

(2) The applicant complies with the regulations of the Administrator prescribed in this part, and with such other terms and conditions as may be included in the grant of assistance; and

(3) The Council is given a reasonable opportunity to review and comment upon the project as it affects property listed or eligible for listing on the National Register.

(b) *Demonstration funds.* A project is eligible for financial assistance in accordance with subsection 4(i) of the Act if the Administrator determines that:

(1) The railroad passenger terminal can be converted to an intermodal passenger terminal;

(2) There exist sufficient commitments by Amtrak or other rail passenger carriers, and by intercity bus carriers, the local public transportation authority, or other public or private transportation operators, to provide co-ordinated service for convenient intermodal interchange to meet the goals enumerated in paragraph (b) of § 256.13;

(3) The railroad passenger terminal is listed on the National Register;

(4) The architectural integrity of the railroad passenger terminal will be preserved, and this determination is concurred in by the consultants recommended by the Chairman and Council and retained by the Administrator for this purpose;

(5) To the extent practicable, the use of station facilities for transportation purposes may be combined with use for other civic and cultural activities, especially when such use is recommended by the Council or the Chairman, or the consultants retained by the Administrator upon their recommendation;

(6) The applicant has provided the information and documentation required under § 256.11(c).

(7) The railroad passenger terminal and the conversion project meet such other criteria as the Administrator may develop and promulgate in consultation with the Chairman and the Council.

(c) *Preservation funds.* A project is eligible for financial assistance in accordance with subsection 4(i) of the Act if the Administrator determines that:

(1) The applicant is empowered by applicable law, and is qualified, prepared, and committed, on an interim basis pending the formulation of plans for reuse, to maintain and prevent the demolition, dismantling, or further deterioration of, a railroad passenger terminal;

(2) The railroad passenger terminal is threatened with demolition, dismantling, or further deterioration;

(3) There is a reasonable likelihood that the railroad passenger terminal will be converted to or conditioned for reuse as an intermodal passenger terminal. The primary use of the terminal

shall be for intermodal purposes, but facilities for the provision of civic and cultural activities may be incorporated to the extent feasible. Such dual use of the terminal is particularly encouraged when it is recommended by the Council or the Chairman.

(4) Planning activity aimed at conversion or reuse has commenced and is proceeding in a competent manner;

(5) The expenditure of funds on such project would be in the manner most likely to maximize the preservation of railroad passenger terminals which are:

(i) Reasonably capable of conversion to intermodal passenger terminals;

(ii) Listed in the National Register; or

(iii) Recommended on the basis of architectural integrity and quality by the Chairman or the Council; and

(6) The applicant has provided the information and documentation required by §256.11(d).

(d) *Planning funds.* A project is eligible for financial assistance in accordance with subsection 4(i)(5) of the Act if the Administrator determines that:

(1) The applicant is prepared to develop practicable plans meeting the zoning, land use, and other requirements of the applicable State and local jurisdictions in which the rail passenger terminal is located;

(2) The applicant incorporates into its plans for the conversion of an historic terminal into an intermodal passenger terminal, features which appear reasonably likely to attract private investors willing to finance the planned conversion and/or its subsequent maintenance and operation. The primary use of the terminal shall be for intermodal purposes, but facilities for the provision of civic or cultural activities may be incorporated to the extent feasible.

(3) The applicant will be able to complete the designs and plans for such conversion within two years following the approval of the application for Federal financial assistance;

(4) The expenditure of funds on such project would be in the manner most likely to maximize the preservation of railroad passenger terminals which are listed in the National Register or recommended on the basis of architectural

integrity and quality by the Chairman or the Council; and

(5) The applicant has provided the information and documentation required under §256.11(e).

[40 FR 29080, July 10, 1975, as amended at 43 FR 21887, May 22, 1978; 44 FR 21647, Apr. 11, 1979]

#### § 256.7 Financial assistance.

(a) *Demonstration funds.* Federal financial assistance for the conversion of a railroad passenger terminal into an intermodal passenger terminal, under subsection 4(i)(2) of the Act, may be expended for the following project costs incurred after the date of final project approval:

(1) Acquisition or long-term lease of real property or other property interests, including air rights, subterranean rights, or easements, where necessary for project implementation;

(2) Final architectural and engineering construction documentation, including all necessary plans, specifications, detailed cost estimates, and implementation schedules; and

(3) Construction, which may include, but is not limited to:

(i) Complete rehabilitation and refurbishment of the interior and exterior of the structure;

(ii) Provision of necessary public service facilities;

(iii) Structural modifications and minor additions necessary to permit the development of (A) improved rail passenger facilities, (B) intercity bus terminal and docking facilities, (C) adequate facilities for local mass transit, and (D) parking and access for automobiles and bicycles; and

(iv) Provisions for accommodating major tenants and concessionaires such as airline ticket offices, rent-a-car offices, and other transportation service facilities.

(b) *Preservation funds.* Federal financial assistance under subsection 4(i)(3) of the Act, for the preservation of a railroad passenger terminal which has a reasonable likelihood of being converted or otherwise maintained, may be expended for costs incurred after the date of project approval which are necessary to maintain (and prevent the

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demolition, dismantling, or further deterioration of) a railroad passenger terminal pending the completion of project planning, for a period not to exceed five years.

(c) *Planning funds.* Federal financial assistance granted under subsection 4(i)(5) of the Act for the development of plans for the conversion of a railroad passenger terminal into an intermodal passenger terminal, which may incorporate civic and cultural activities where feasible, may be expended for the following project costs if incurred within two years after project approval:

(1) Cost of a study or studies to:

(i) Assess the need for and the feasibility of converting an existing railroad passenger terminal into an intermodal passenger terminal which may incorporate civic and cultural activities where feasible;

(ii) Develop a fiscal plan and agreements for the plan's implementation; and

(iii)(A) Relate the project to other transportation priorities in the area; and

(B) Evaluate alternate means of providing needed intermodal passenger services within the community.

(2) Costs of preparation of preliminary architectural and engineering design documents for the project, including:

(i) Plans, sections, and sketches illustrating the functional as well as preservation aspects of the recommended development;

(ii) Assessment of the condition of existing structural and utilities systems and requirements for their improvement;

(iii) Outline specifications and preliminary estimates of project costs; and

(iv) Required environmental impact reviews and analyses.

(d) *Federal share.* The Federal share of any project under this part shall not exceed 80 percent of the total allowable project costs. The non-Federal share may not be augmented by any Federal funds, directly or indirectly, unless the funds are provided through a Federal program which specifically authorizes the augmentation of a non-Federal

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share of a federally-assisted program with such funds.

[40 FR 29080, July 10, 1975, as amended at 43 FR 21887, May 22, 1978; 44 FR 21647, Apr. 11, 1979]

## § 256.9 [Reserved]

## § 256.11 Applications.

(a) *Incorporation by reference in application of previously submitted information or material.* Any information or material of any kind which has been submitted by an applicant need not be resubmitted if the prior submission is identified and incorporated by reference in the application. Where the prior submission is in need of any changes of any kind, the changes may be submitted provided the prior submission is identified and incorporated by reference with the changes. Any assurance, certification, or affirmation previously made by the applicant, in connection with a prior submission, must be reaffirmed by the applicant when any identification and incorporation by reference of previously submitted materials is made.

(b) *Pre-applications for demonstration funds.* In accordance with appendix M of Office of Management and Budget Circular A-102, applicants shall use the pre-application form directed for use for construction, land acquisition, and land development projects when applying for demonstration funds under this program. Applicants shall include under Part IV (Program Narrative) of the pre-application form:

(1) A statement of whether the railroad passenger terminal is listed in the National Register;

(2) A statement as to the interest and anticipated cooperation of the terminal owner and the relevant transportation companies;

(3) Where the applicant contemplates using funds it has received or will receive from other Federal programs for the planning or preservation stage of the projects, a brief description of the sources, and total anticipated amount of such funds; and

(4) A breakdown of the total allowable project costs.

(c) *Applications for demonstration funds.* Upon notification of the approval of the pre-application, applicants shall submit a final application for demonstration funds using the Federal Assistance Application for Construction Programs in accordance with appendix M of Office of Management and Budget Circular A-102. Applicants shall include under Part IV (Program Narrative) of the form:

(1) A list of all organizations which will participate in the planning, implementation, or operation of each project, along with a discussion of the role of each organization;

(2) A full discussion of the desirability and feasibility of the project and a summary of the benefits to be derived;

(3) A summary of each proposed use of the intermodal passenger terminal for a civic or cultural activity;

(4) A description and documentation of existing or potential markets for interline intermodal service making use of the project facility, and of any changes in existing services which must be provided to achieve this potential;

(5) The proposed period during which the project will be evaluated to determine whether it has achieved the goals set forth in §256.13(b);

(6) A detailed description of the rail passenger terminal (including where applicable the description on file with the National Register), the available transportation facilities, and the proposed intermodal passenger transportation improvements;

(7) Evidence that the architectural integrity of the railroad passenger terminal will be preserved;

(8) A detailed estimate of the total allowable project costs, listing and identifying each cost to the maximum possible extent;

(9) Evidence of the applicant's ability and intent to furnish its share of the total allowable costs;

(10) Evidence that the applicant has established, in accordance with Attachment G of Office of Management and Budget Circular A-102, adequate procedures for financial control, accounting, and performance evaluation, in order to assure proper use of the Federal funds;

(11) An assurance by the applicant that it will use Federal funds provided under the Act solely for the purpose for which assistance is sought and in conformance with the limitations on the expenditures allowed under the Act and applicable regulations;

(12) A description of the proposed methods of monitoring and evaluating the demonstration;

(13) Copies of the following: Preliminary architectural and engineering design documents, plans, sections, sketches, and outline specifications;

(14) A proposed draft of an environmental impact statement, including documentation that the project includes all possible planning to minimize harm to the historic nature of the facility as required by section 4(f) of the Act (49 U.S.C. 1653(f)), to be reviewed, analyzed and used by the Administrator in preparation of a final Environmental Impact Statement under Department of Transportation Order 5610.IB (39 FR 35234, September 30, 1974);

(15) Two copies of an affirmative action program prepared in accordance with section 905 of the 4R Act (45 U.S.C. 803) and 49 CFR part 265;

(16) Assurances that the applicant will comply with the following Federal laws, policies, regulations and pertinent directives:

(i) Title VI of the Civil Rights Act of 1964 42 U.S.C. 2000d *et seq.*, and 49 CFR part 21;

(ii) Section 905 of the 4R Act (45 U.S.C. 803), and 49 CFR part 265;

(iii) Executive Order 11246, as amended (30 FR 12319, 32 FR 14303) and 41 CFR 60-4, as amended (43 FR 14888, Apr. 7, 1978) which require equal employment opportunity in federally-assisted construction programs.

(iv) Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 *et seq.*, and 49 CFR part 25;

(v) 42 U.S.C. 4151 *et seq.*, with regard to Federal policies ensuring that physically handicapped persons will have ready access to, and use of, public buildings;

(vi) The Rehabilitation Act of 1973, 29 U.S.C. 794, with regard to non-discrimination under Federal grants;

(vii) The Hatch Act, 5 U.S.C. 1501 *et seq.*, which limits the political activities of employees; and

(viii) Where applicable, the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 *et seq.*, and 31 CFR part 51.

(17) Evidence of all legal commitments including, but not limited to, operating agreements and right-of-way leases which have been obtained from private carriers, public transportation operating agencies, and other entities as appropriate, to assure continued operation of the transportation services during the evaluation period;

(18) Evidence (including, but not limited to, copies of leases, deeds, easements, certificates of title, and mortgage agreements) that the applicant's property interest in the railroad passenger terminal is or will be, at the commencement of the project, sufficient for the applicant to implement the project;

(19) A summary of each proposed agreement permitting the use of any portion of the intermodal passenger terminal for commercial purposes other than the provision of transportation services (if a standard form contract is to be used, applicant may submit a copy of the standard contract, a list of parties with whom it has contracted, and a list of any terms not common to the standard contract);

(20) An opinion of the applicant's legal counsel advising that (i) counsel is familiar with (A) the applicant's corporate or other organization powers; (B) section 4(i) of the Act, as amended (49 U.S.C. 1653(i)); (C) the other Acts referred to in these regulations; and (D) any regulations issued to implement those Acts; (ii) the applicant is authorized to make the application including all certifications, assurances, and affirmations required; (iii) the applicant has the requisite authority to carry out the actions proposed in the application and to fulfill the obligations created thereby, including the obligation to pay a share of the costs of the proposed project; (iv) the applicant has the authority to enter into all of the legal commitments referred to in paragraph (c)(16) of this section and that these commitments are legal and binding by their terms; and (v) the applicant's property interest in the railroad pas-

senger terminal is sufficient for the applicant to implement the project;

(21) For projects located in urbanized areas, as defined by the Bureau of the Census, a statement that the application has been coordinated with the metropolitan planning organization, designated by the Governor of the State in which the project is located pursuant to 23 U.S.C. 104(f)(3);

(22) A certification by the applicant that, in accordance with Office of Management and Budget Circular A-95 (41 FR 2052, Jan. 13, 1976), section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334), and section 401 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231), notification of the project has been submitted to, and comments thereon have been solicited from, the appropriate State and regional agencies and clearinghouses; and

(23) Any other information that the Administrator may require.

(d) *Applications for preservation funds.* Each application for preservation assistance shall include:

(1) The complete name and principal business address of the applicant;

(2) The complete name, title, and address of the person to whom correspondence regarding the application should be addressed;

(3) A list of all organizations which will participate in the planning, implementation, or operation of each project, and a discussion of each organization's role;

(4) A full discussion of the desirability and feasibility of the project and a summary of the benefits to be derived;

(5) A detailed description of the rail passenger terminal (including where applicable the description on file with the National Register), the available transportation facilities, and the proposed intermodal passenger transportation improvements;

(6) Documentation of the threat to the existing terminal, involving demolition, dismantling, or further deterioration of the terminal and the causes thereof;

(7) Evidence that the planning for conversion or reuse of the terminal has commenced and that it is proceeding in a timely manner, including a copy of the projected planning schedule;

(8) A proposed draft of an environmental impact statement or a negative declaration, including documentation that the project includes all possible planning to minimize harm to the historic nature of the facility as required by section 4(f) of the Act, 49 U.S.C. 1653(f), to be reviewed, analyzed, and used by the Administrator in preparation of a final Environmental Impact Statement or Negative Declaration as required by Department of Transportation Order 5610.1B (39 FR 35234, Sept. 30, 1974);

(9) A detailed estimate of the total allowable project costs, listing and identifying all anticipated preservation costs to the maximum extent possible;

(10) The total amount of Federal assistance requested;

(11) Evidence of the applicant's ability and intent to furnish its share of the total allowable project costs;

(12) Where the applicant contemplates using funds which it has received or will receive from other Federal programs for the planning or demonstration stage of the project, a brief description of the sources, use and total anticipated amount of such funds;

(13) Evidence that the applicant has established in accordance with Attachment G of Office of Management and Budget Circular A-102, adequate procedures for financial control, accounting, and performance evaluation in order to assure proper use of the Federal funds;

(14) An assurance by the applicant that it will use Federal funds provided under the Act solely for the purpose for which assistance is sought and in conformance with the limitations on the expenditures allowed under the Act and applicable regulations;

(15) Evidence of substantial local public and/or private interest in organizing a project to convert the existing railroad passenger terminal to an intermodal passenger terminal, which may include use for civic or cultural activities;

(16) An opinion of the applicant's legal counsel stating that:

(i) Counsel is familiar with (A) the applicant's corporate or other organizational powers; (B) section 4(i) of the Act, as amended (49 U.S.C. 1653(i)), (C) the other Acts referred to in these reg-

ulations; (D) and any regulation issued to implement those Acts;

(ii) The applicant is authorized to make this application including all certifications, assurances, and affirmations required;

(iii) The applicant has the requisite authority to carry out the actions proposed in its application and to fulfill the obligations created thereby, including the obligation to pay a share of the cost of the proposed project, and

(iv) The applicant is empowered, for an interim period pending the formulation of plans for the conversion of the existing railroad passenger terminal, to maintain the terminal building and prevent its demolition, dismantling, or further deterioration;

(17) For projects located in urbanized areas, as defined by the Bureau of the Census, a statement that the application has been coordinated with the metropolitan planning organization, designated by the Governor of the State in which the project is located, pursuant to 23 U.S.C. 104(f)(3);

(18) A certification by the applicant that, in accordance with Office of Management and Budget Circular A-95 (41 FR 2052, Jan. 13, 1976), section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334), and section 401 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231), notification of the project has been submitted to, and comments thereon have been solicited from, the appropriate State and regional agencies and clearinghouses;

(19) Two copies of an affirmative action program prepared in accordance with section 905 of the 4R Act (45 U.S.C. 803) and 49 CFR part 265;

(20) Assurances that the applicant will comply with the following Federal laws, policies, regulations and pertinent directives:

(i) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*, and 49 CFR part 21;

(ii) Section 905 of the 4R Act (45 U.S.C. 803) and 49 CFR part 265;

(iii) Executive Order 11246, as amended (30 FR 12319, 32 FR 14303) and 41 CFR 60-4, as amended (43 FR 14888, Apr. 7, 1978), which requires equal employment opportunity in federally-assisted construction programs.

(iv) Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 *et seq.*, and 49 CFR part 25;

(v) 42 U.S.C. 4151 *et seq.*, with regard to Federal policies ensuring that physically handicapped persons will have ready access to, and use of, public buildings;

(vi) The Rehabilitation Act of 1973, 29 U.S.C. 794, with regard to non-discrimination under Federal grants;

(vii) The Hatch Act, 5 U.S.C. 1501 *et seq.*, which limits the political activities of employees; and

(viii) Where applicable, the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 *et seq.*, and 31 CFR part 51; and

(21) Any other information that the Administrator may require.

(e) *Applications for planning funds.* Each application for planning assistance shall include:

(1) The complete name and principal business address of the applicant;

(2) The name, title, and address of the person to whom correspondence regarding the application should be addressed;

(3) A list of all organizations which will participate in the planning, implementation, or operation of each project, and a discussion of each organization's role;

(4) A preliminary statement of work, and a detailed estimate of all planning costs broken down by project task;

(5) A proposed schedule for the planning process;

(6) A full discussion of the desirability and feasibility of the project and a summary of the benefits to be derived;

(7) A detailed description of the rail passenger terminal (including, where applicable, the description on file with the National Register), the available transportation facilities, and the proposed intermodal passenger transportation improvements;

(8) The total amount of Federal assistance requested;

(9) Evidence of the applicant's ability and intent to furnish its share of the total allowable project costs;

(10) Where the applicant contemplates using funds which it has received or will receive from other Federal programs for the preservation or

demonstration stages of the project, a brief description of the sources, use, and anticipated amount of such funds;

(11) Evidence that the applicant has established, in accordance with Attachment G of Office of Management and Budget Circular A-102, adequate procedures for financial control, accounting, and performance evaluation, in order to assure proper use of the Federal funds;

(12) An assurance by the applicant that it will use Federal funds provided under the Act solely for the purpose for which assistance is sought and in conformance with the limitations on the expenditures allowed under the Act and applicable regulations;

(13) An opinion of the applicant's legal counsel stating that:

(i) Counsel is familiar with (A) the applicant's corporate or other organization powers; (B) section 4(i) of the Act, as amended, 49 U.S.C. 1653(i); (C) the other Acts referred to in these regulations; and (D) any regulations issued to implement those Acts;

(ii) The applicant is authorized to make this application including all certifications, assurances, and affirmations required; and

(iii) The applicant has the requisite authority to carry out the actions proposed in its applications and to fulfill the obligations created thereby, including the obligation to pay a share of the costs of the proposed project;

(14) A proposed schedule for the implementation of the applicant's completed designs and plans;

(15) For projects located in urbanized areas, as defined by the Bureau of the Census, a statement that the application has been coordinated with the metropolitan planning organization, designated by the Governor of the State in which the project is located, pursuant to 23 U.S.C. 104(f)(3);

(16) A certification by the applicant that, in accordance with Office of Management and Budget Circular A-95 (41 FR 2052, Jan. 13, 1976), section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334), and section 401 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231), notification of the project has been submitted to, and comments thereon have been solicited from, the



appropriate State and regional agencies and clearinghouses;

(17) Two copies of an affirmative action program prepared in accordance with section 905 of the 4R Act (45 U.S.C. 803) and 49 CFR part 265;

(18) Assurances that the applicant will comply with the following Federal laws, policies, regulations, and pertinent directives:

(i) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. and 49 CFR part 21;

(ii) Section 905 of the 4R Act (45 U.S.C. 803) and 49 CFR part 265;

(iii) Title II and title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 et seq. and 49 CFR part 25;

(iv) 42 U.S.C. 4151 et seq., with regard to Federal policies ensuring that physically handicapped persons will have ready access to, and use of, public buildings;

(v) The Rehabilitation Act of 1973, 29 U.S.C. 794, with regard to non-discrimination under Federal grants;

(vi) The Hatch Act, 5 U.S.C. 1501, et seq., which limits the political activities of employees; and

(vii) Where applicable, the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 et seq., and 31 CFR part 51;

(19) A statement that the applicant is prepared to develop practicable plans meeting the zoning, land use, and other requirements of the applicable State and local jurisdictions in which the rail passenger terminal is located.

(20) An assurance by the applicant that the designs and plans for the conversion to an intermodal passenger terminal, including any use for civic or cultural activities, will be completed within two years following the approval of the application for Federal financial assistance;

(21) A description of how the applicant can incorporate features which appear reasonably likely to attract private investors willing to share in the implementation of the planned conversion and its subsequent maintenance and operation;

(22) An environmental assessment using an interdisciplinary approach in identifying the type, degree, effect, and probability of occurrence of potential

environmental impacts due to the conversion to an intermodal passenger terminal; and

(23) Any other information that the Administrator may require.

(f) *Execution and filing of applications.*

(1) The original application shall bear the date of execution and be signed by the Chief Executive Officer of the applicant or by the applicant, where the applicant is an individual. Each person required to execute an application shall execute a certificate in the form of appendix A hereto.

(2) The original application and two (2) copies shall be filed with the Federal Railroad Administrator, Department of Transportation, 400 7th Street SW., Washington, DC 20590. Each copy shall show the dates and signatures that appear in the original and shall be complete in itself.

(3) Pre-applications for demonstration funds must be submitted to the Administrator no later than August 21, 1978. Applications for planning, preservation and demonstration funds must be submitted to the Administrator no later than September 19, 1978. Applications received after these deadlines will not be considered for funding, unless all funds are not granted to applicants who have met the application deadline.

[43 FR 21887, May 22, 1978]

#### **§ 256.13 Review and approval of applications.**

(a) *Pre-applications.* Pre-applications for demonstration funds shall be reviewed by the Administrator in consultation with the Chairman and the Council.

(b) *Applications.* The Administrator shall review applications in consultation with the Chairman and the Council and select and monitor projects most likely to accomplish the following goals:

(1) Demonstrate the capabilities of intermodal terminals to provide a more effective means of passenger interchange between various modes of transportation;

(2) Demonstrate the advantages of joint use terminal facilities to carriers;

(3) Demonstrate a more comprehensive and effective network of energy efficient surface common carrier transportation services through improving coordinated interline intermodal exchange at selected intermodal passenger terminals distinguished by coordinated information systems, schedules, and through ticketing and baggage handling;

(4) Evaluate user response to such coordinated interline intermodal transportation services, and to joint carrier use of terminal facilities;

(5) Demonstrate the potential of underutilized railroad passenger terminals of historical and architectural distinction for improving intermodal passenger transportation services and for providing an appropriate focal point for civic and cultural activities;

(6) Stimulate local public and private investment, by transportation carriers and others, in improved intercity and local public transportation facilities and services;

(7) Encourage the preservation of railroad passenger terminals pending the formulation of plans for reuse; and

(8) Encourage the development of plans for the conversion of railroad passenger terminals into intermodal passenger terminals, which may incorporate civic and cultural activities where feasible.

(c) *Preferential consideration.* In reviewing applications for planning funds, the Administrator shall give preferential consideration to applicants whose completed designs and plans will be implemented and effectuated within three years after the date of completion.

(d) *Approval within 90 days.* The Administrator will approve or deny each application within 90 days of the submission dates set forth in §256.11(f)(3) and the Administrator will promptly notify in writing each applicant whose application has been approved.

[40 FR 29080, July 10, 1975, as amended at 43 FR 21890, May 22, 1978; 44 FR 21647, Apr. 11, 1979]

**§256.15 Disbursement of financial assistance.**

(a) *Grant agreement.* After receipt, review, and approval of an application, the Administrator will enter into a

grant agreement with an applicant for the Federal share of the total allowable project costs. The terms and conditions of payment of the Federal share shall be set forth in the grant agreement.

(b) *Record retention.* Each recipient of financial assistance under this part shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(c) *Audit and examination.* Until the expiration of three years after the completion of the project or undertaking referred to in paragraph (b) of this section, the Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which, in the opinion of the Administrator or the Comptroller General, may be related or pertinent to such financial assistance.

[40 FR 29080, July 10, 1975, as amended at 43 FR 21890, May 22, 1978]

**APPENDIX A TO PART 256—CERTIFICATE**

The following is the form of the certificate to be executed by each person signing a pre-application or application:

\_\_\_\_ (Name of Person) certifies that he is the Chief Executive Officer of \_\_\_\_\_ (Name of Agency or Organization); that he is authorized to sign and file with the Federal Railroad Administrator this (pre-application or application); that he has carefully examined all of the statements contained in the (pre-application or application) relating to \_\_\_\_\_; that he has knowledge of the matters set forth therein and that all statements made and matters set forth therein are true and correct to the best of his knowledge, information and belief.

[43 FR 21890, May 22, 1978]

**PART 260—REGULATIONS GOVERNING SECTION 511 OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976, AS AMENDED**

**Subpart A—Procedures for Application for Commitment to Guarantee or Guarantee of Obligations**

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 260.1 Applicability.  
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**APPENDIX TO SUBPART A—ENVIRONMENTAL ASSESSMENTS**

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- 260.17 Applicability.  
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- 260.31 Applicability.  
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**APPENDIX A TO PART 260—SELECTED CASH FLOW IMPACTS**

**APPENDIX B TO PART 260—FORMS TO BE USED IN COMPUTING IRR**

**FORM I—ANALYSIS OF CAPITALIZED INVESTMENT**

**FORM II—ANALYSIS OF SALE OR RETIREMENT OF ASSETS**

**FORM III—ANALYSIS OF EXPENSES AND CONTRIBUTION TO PROFIT**

**FORM IV—CONSOLIDATION OF CASH FLOWS**

**FORM V—COMPUTATION OF IRR**

**AUTHORITY:** Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210, 90 Stat. 76, as amended by the Rail Transportation Improvement Act, Pub. L. 94-555, 90 Stat. 2625; the Department of Transportation Act, 49 U.S.C. 1651 et seq., regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(u).

**SOURCE:** 43 FR 14870, Apr. 7, 1978, unless otherwise noted.

**Subpart A—Procedures for Application for Commitment to Guarantee or Guarantee of Obligations**

**§ 260.1 Applicability.**

This subpart prescribes the procedures governing applications for a commitment to guarantee or a guarantee of the payment of the principal balance of, and any interest on, an obligation of an applicant under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended ("Act"). Applications for a commitment to guarantee or a guarantee of obligations of the Consolidated Rail Corporation for electrification of high-density mainline routes must be filed in accordance with these procedures, as provided in section 211(i) of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 721(i)). These procedures also govern applications for a commitment to guarantee or guarantee of obligations incurred for the purpose set forth in section 517 of the Act, improvement of intercity rail passenger service on lines of the applicant located outside the Northeast Corridor, being the properties acquired by the National Railroad Passenger Corporation pursuant to title VII of the Act and described in section 701(a)(4) of the Act.

**§ 260.3 Definitions.**

As used in this part—

(a) *Act* means the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210, February 5, 1976), as amended.

(b) *Administrator* means the Federal Railroad Administrator, or his delegate.

(c) *Applicant* means any railroad, or other person (including a governmental entity) that submits an application to the Administrator for the guarantee of an obligation under which it is an obligor or for a commitment to guarantee such an obligation.

(d) *Commission* means the Interstate Commerce Commission.

(e) *Equipment* means any type of new or rebuilt standard gauge locomotive, caboose, or general service railroad